

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6551**

**BILL NUMBER:** SB 266

**NOTE PREPARED:** Dec 30, 2011

**BILL AMENDED:**

**SUBJECT:** State Contractor Accountability.

**FIRST AUTHOR:** Sen. Arnold

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Contractor Registration:* The bill provides that persons who have contracts with state government, cities, or counties or who bid on contracts with state government, cities, or counties and certain persons affiliated with the contractors and bidders may not make political contributions to an individual who holds a state, city, or county office or is a candidate for a state, city, or county office.

It requires persons who have contracts with state, city, or county government or who bid on contracts with state, city, or county government to register with the Department of Administration (IDOA). The bill also requires registrants to notify their affiliated persons that they are registered.

*Data Base:* The bill requires the IDOA to make the information provided by registrants available to the agency maintaining the Indiana Transparency Portal in a searchable data base on the state's web site.

*Civil Penalties:* The bill provides civil penalties for violations. It also provides that, for the violation of a requirement or prohibition, a bidder may be found nonresponsible and the contract of a contractor may be voided.

*Soliciting Political Contributions:* The bill provides that state employees in the executive branch of state government who have purchasing or procurement authority may not solicit political contributions unless the soliciting individual is a candidate for public office.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** *Contractor Registration:* The Indiana Department of Administration

is required to provide electronic registration certificates to state contractors who are required to register under this bill. Information about registered persons is to be accessible online in a searchable database on the Indiana Transparency Portal website. The provisions of this bill relating to state contractor registration and the creation of a searchable database will likely increase costs for the IDOA and the Office of Technology, but it is unknown to what extent. As a point of reference, the initial costs for an IDOA searchable database for state contracts were approximately \$85,000.

*Criminal Penalties:* Individuals who violate provisions of the bill may be subject to several existing felony and misdemeanor offenses, including perjury, a Class D felony; knowingly filing a false report under the election laws (IC 3-14-1-13), a Class D felony; and failing to file a report under the election laws (IC 3-14-1-14), a Class B misdemeanor.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$18,836 in FY 2011. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,318 annually, or \$9.09 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$75,591 in FY 2011. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

*Contract Termination:* In addition, a person who knowingly or intentionally fails to register or disclose material information would be considered nonresponsible for any offer submitted, and an awarded contract would be voidable either by decision of the contract officer or by operation of law for persons with multiple violations. To the extent that a contract would have to be rebid, costs for the contract could increase.

**Explanation of State Revenues:** *Criminal Penalties:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000 and for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *Contract Termination:* For voided contract costs for cities and counties, see *Explanation of State Expenditures* above.

*Criminal Penalties:* If more defendants are detained in county jails prior to their court hearings or convicted of a Class B misdemeanor, which is punishable by up to 180 days in jail, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Criminal Penalties:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of

record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Rob Wynkoop, IDOA, 317-232-3114; Indiana Sheriffs' Association, Department of Correction.

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